

Application No. 10/549,873  
Amendment Dated August 23, 2010  
Response to Office Action dated March 23, 2010

**REMARKS**

Claims 1, 7, 12, 13, 16, 20, 21, 24-26, and 39-37 are pending. Claims 7, 16, and 35 are canceled herein. Accordingly, claims 1, 12, 13, 20, 21, 24-26, 29-34, 36 and 37 are at issue herein.

Claim 16 only stands rejected as indefinite.

The subject matter of claim 16 incorporated into independent claim 13 is amended to provide proper antecedent basis for the recited lower surface of the insert characterizing it as having an arcuate configuration as it is introduced earlier in independent claim 13. However, the staked portions of the anchor member head are first introduced in claim 16, and are positively recited in this claim, and thus are incorporated without amendment into claim 13. Since claim 16 was not rejected over prior art, it is believed that claim 13 as amended to include the limitations of claim 16 should now be in condition for allowance, along with claim 20 which depends therefrom.

Claims 1, 7, 12, 21, and 29 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,565,565 to Yuan et al. Claims 30, 33, and 35-37 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yuan et al. Claims 31-32 and 34 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yuan et al. and in view of WO 2003/024343 to De Coninck et al. Claims 13, 20, and 24-26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yuan et al. in view of U.S. Publication No. 2005/0107788 to Beaurain et al.

The rejections, as they may apply to the claims presented herein, are respectfully traversed.

Claim 1 is amended to incorporate the limitations of canceled dependent claim 7 so that the cam lock member has a bottom cam surface like the bottom cam surface of the cam lock member of independent claim 21. In the Action, it is asserted that Yuan et al. teach a bottom cam surface on the upper portion or component 220a of the two-piece locking cam 220.

In actuality, Yuan et al. teach the opposite of the recited bottom cam surface. Instead, Yuan et al. disclose arcuate engagement flanges 284 and 286 radially projecting from the upper locking cap component 220a and having upwardly facing cam surfaces that cooperate with arcuate engagement slots 294 and 296 of the head portion 222. Turning the cap upper component 220a generates camming engagement between the flanges and slots which causes the upper cap component 220a to be shifted so that the lower cap component 220b is seated within the bottom recessed seating area 287 of the upper component 220a. As can be seen in Fig. 12B, the recessed surface 287 does not include a cam surface as it simply is a flat, annularly configured surface that extends orthogonal to the Y axis of the head portion 222. Further, the recessed surface 287 receives the corresponding flat, upper surface of the lower locking cap component 220b (see Fig. 12A) with each of these surfaces extending radially orthogonal about the Y axis so that no camming occurs when the surfaces are engaged together. See column 11, lines 31-34 of Yuan et al. Thus, it is submitted that Yuan et al. fail to disclose or suggest the recited bottom cam surface of the cam lock member of independent claims 1 and 21. Further, it is submitted that Yuan et al. actually teach away from the recited bottom cam surface since their cam surfaces on the corresponding cam lock member or upper locking cap component 220a are on upper surfaces thereof.

Additionally, claim 1 requires that the cam lock member be fixed against translation during turning thereof, whereas Yuan et al. teach that rotation of the upper

locking cap component 220a will cause it to be driven downwardly in the head portion 222 due to the camming engagement between the arcuate engagement flange 284 and 286 of the upper locking cap component 220a and the arcuate engagement slots 294 and 296, as previously discussed. Accordingly, it is believed claim 1, and claim 12 which depends therefrom, and claim 21, and claims 24-26 and 29 which depend cognately therefrom, are allowable over the relied upon art.

Claim 30 is amended to recited the limitations of canceled dependent claim 35 so that claim 30 calls for the cap member to have a bottom cam surface and the saddle member to have an upper cam surface with these cam surfaces cammingly engaging each other so that turning of the cap member toward the lock position causes the saddle member to be driven axially towards the elongate member without requiring axial movement of the cap member. Again, Yuan et al. does not disclose a cap member having a bottom cap surface, nor do Yuan et al. disclose that their corresponding cap member, i.e. upper locking cap component 220a, is not required to be driven axially toward the spinal rod when it is turned toward the locked position, as required for the cap member of amended claim 30.

Accordingly, claims 30, and claims 31-34, 36 and 37 which depend cognately therefrom, are believed to be allowable over the relied upon art.

Based on the foregoing, reconsideration and allowance of claims 1, 12, 13, 20, 21, 24-26, 29-34, 36 and 37 are respectfully requested.

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The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication or credit any overpayment to Deposit Account No. 06-1135.

Respectfully submitted,

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